

HOUSE BILL NO. 517

INTRODUCED BY G. BRANAE

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING PROVISIONS GOVERNING THE SCENIC-HISTORIC BYWAYS PROGRAM; INCLUDING TRIBAL ISSUES AMONG THE SUBJECTS A MEMBER OF THE PROGRAM ADVISORY COUNCIL MUST HAVE EXPERTISE IN; REMOVING CERTAIN MEANS BY WHICH A ROAD MAY BE EXCLUDED FROM THE PROGRAM; REMOVING CERTAIN FACTORS THAT MUST BE CONSIDERED IN A LOCALITY'S SCENIC-HISTORIC BYWAYS CORRIDOR MANAGEMENT PLAN; AND AMENDING SECTIONS 60-2-601 AND 60-2-602, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 60-2-601, MCA, is amended to read:

"60-2-601. Scenic-historic byways program -- advisory council -- expenditure of funds. (1) There is a scenic-historic byways program. The commission may designate roads to be included as part of the program and may add or delete roads from the program. The commission may not designate a road as a scenic-historic byway without the concurrence of the affected local governments and the agencies responsible for maintenance and operation of the road. A road or right-of-way across federal land that was granted by 43 U.S.C. 932 and recognized by 43 U.S.C. 1701 may be considered for inclusion in the program.

(2) Notwithstanding the provision of 2-15-122, the commission shall appoint an advisory council for the scenic-historic byways program.

(3) The advisory council is a technical oversight council composed of no more than 11 members who must have expertise in one or more of the subjects of tourism, visual assessment, tribal issues, Montana history, resource protection, economic development, transportation, or planning. One member of the advisory council must be a representative of the Montana chamber of commerce.

(4) The advisory council shall:

- (a) assist the department and the commission in designing the program;
- (b) review applications for nominating roads to the scenic-historic byways program; and
- (c) recommend to the commission roads that should be included in or deleted from the scenic-historic byways program.

1 (5) The department, upon the direction of the commission, may expend any funds appropriated for or
 2 otherwise available to the scenic-historic byways program."

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4 **Section 2.** Section 60-2-602, MCA, is amended to read:

5 **"60-2-602. Scenic-historic byways program -- rules.** (1) The department shall adopt rules to effectively
 6 administer the scenic-historic byways program. The rules must include the criteria that will be considered for
 7 designating a road for inclusion in the scenic-historic byways program.

8 (2) In developing the criteria, to be included in the rules, for designating a road for inclusion in the
 9 scenic-historic byways program, the advisory council, commission, and department shall specifically address:

10 (a) factors that allow each locality choosing to participate in or seeking participation in the scenic-historic
 11 byways program the opportunity to:

12 (i) enhance the experience of the traveling public;

13 (ii) stimulate or allow for economic development and new marketing strategies; ~~or~~

14 (iii) preserve intrinsic resources for the benefit of future generations; or

15 (iv) use the corridor management plan for a designated byway as a visioning tool to provide direction for
 16 enhancing and marketing the corridor, but not as a land management document, zoning tool or mandate, highway
 17 improvement scoping or prioritization document, or highway management document;

18 (b) a methodology by which a locality choosing to participate in or seeking participation in the
 19 scenic-historic byways program may participate in the national scenic byways program, described in section 1047
 20 of Public Law 102-240;

21 ~~(c) means by which a road may be excluded from designation as a scenic-historic byway by:~~

22 ~~—— (i) an incorporated municipality for a road or segment of a road within its jurisdiction; or~~

23 ~~—— (ii) a landowner for a road or segment of a road adjacent to the landowner's private property;~~

24 ~~—— (d)(c) factors to be considered in assessing the intrinsic, scenic, historic, recreational, cultural,~~
 25 ~~archaeological, educational, or natural qualities of the road nominated for inclusion in the scenic-historic byways~~
 26 ~~program;~~

27 ~~(e) factors to be considered in a locality's corridor management plan, including that the plan:~~

28 ~~—— (i) serves as a visioning tool to provide direction for enhancing and marketing the corridor, but not as a~~
 29 ~~land management document, zoning tool or mandate, highway improvement scoping or prioritization document,~~
 30 ~~or highway management document;~~

- 1 ~~—— (ii) accommodates commerce and commercial vehicles and maintains a safe and efficient level of~~
2 ~~highway services;~~
- 3 ~~—— (iii) protects private property rights, including assurances that the private property rights of a person who~~
4 ~~owns land adjacent to or visible from the road are not in any way diminished by the road being designated a~~
5 ~~scenic-historic byway or are accommodated through mutually agreeable compensation;~~
- 6 ~~—— (iv) precludes the locality having adopted the corridor management plan from establishing goals or~~
7 ~~commitments outside the locality's jurisdiction; and~~
- 8 ~~—— (v) has accommodated all jurisdictions affected or to be affected by the designation of a road as a~~
9 ~~scenic-historic byway; and~~
- 10 ~~—— (f)(d) procedures to ensure that localities choosing to participate in the scenic-historic byways program:~~
- 11 (i) may exclude from designation any segment of a highway that is inconsistent with the state's criteria
12 for designating scenic-historic byways. Within an excluded segment, a locality may allow off-premises advertising
13 in the form of billboards or painted signs, subject to applicable federal, state, or local laws.
- 14 (ii) may use signage recognized as exceptions or as information signs in all areas along a designated
15 route, provided that the signage complies with 23 U.S.C. 131, Title 60, chapter 5, part 5, Title 75, chapter 15, part
16 1, and all applicable state or locally adopted rules, requirements, and restrictions."

17 - END -